STATE OF MICHIGAN

COURT OF APPEALS

VIVIAN WATSON,

Plaintiff-Appellant,

v

ANNIE WATSON,

Defendant-Appellee.

UNPUBLISHED
September 30, 2003

No. 240662
Wayne Circuit Court
LC No. 01-110426-NO

Before: Smolenski, P.J., and Murphy and Wilder, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order granting defendant's motion for summary disposition in this premises liability action. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court's ruling on a motion for summary disposition is reviewed de novo. *Kefgen v Davidson,* 241 Mich App 611, 616; 617 NW2d 351 (2000). A motion brought under MCR 2.116(C)(10) tests the factual support for a claim. *Smith v Globe Life Ins Co,* 460 Mich 446, 454; 597 NW2d 28 (1999). In ruling on such a motion, the trial court must consider not only the pleadings, but also depositions, affidavits, admissions and other documentary evidence, MCR 2.116(G)(5), and must give the benefit of any reasonable doubt to the nonmoving party. *Id.* Summary disposition is appropriate only if the opposing party fails to present documentary evidence establishing the existence of a material factual dispute. *Id.* at 455.

The trial court correctly ruled that plaintiff was a licensee because she was a social guest and was not visiting the premises for a commercial purpose. *Stitt v Holland Abundant Life Fellowship,* 462 Mich 591, 607; 614 NW2d 88 (2000); *D'Ambrosio v McCready,* 225 Mich App 90, 93; 570 NW2d 797 (1997).

A landowner does not have a duty of inspection or affirmative care to make the premises safe for the licensee's visit. *Stitt, supra* at 596. A landowner owes the licensee a duty only to warn of any hidden dangers the landowner knows or has reason to know of, if the licensee does not know or have reason to know of those dangers. *Id.* "Hence, a possessor of land has no obligation to take any steps to safeguard licensees from conditions that are open and obvious." *Pippin v Atallah,* 245 Mich App 136, 143; 626 NW2d 911 (2001). An open and obvious danger is one that is known to the visitor or is so obvious that the visitor might reasonably be expected to discover it, i.e., one that an average user with ordinary intelligence would have been able to

discover upon casual inspection. *Riddle v McLouth Steel Products Corp*, 440 Mich 85, 96; 485 NW2d 676 (1992); *Novotney v Burger King Corp (On Remand)*, 198 Mich App 470, 475; 499 NW2d 379 (1993).

We decline to rule that defendant owed a duty to plaintiff, as a licensee, to warn plaintiff that there was ice under visible snow considering the well-known nature of Michigan winters.

Affirmed.

/s/ Michael R. Smolenski
/s/ William B. Murphy
/s/ Kurtis T. Wilder